

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRUCE CABBAGESTALK,)	
)	Civil Action No. 06 - 396
Petitioner,)	
)	
v.)	
)	Judge David S. Cercone /
SUPERINTENDENT HARRY WILSON; THE)	Magistrate Judge Lisa Pupo
DISTRICT ATTORNEY OF THE COUNTY)	Lenihan
OF ALLEGHENY; and the ATTORNEY)	
GENERAL FOR THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

MEMORANDUM ORDER

The above captioned Petition was received by the Clerk of Court on March 27, 2006, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (doc. no. 10), filed on March 13, 2007, recommended that the Petition be dismissed as untimely. Service was made on Petitioner at S.C.I. Fayette, and on counsel of record for the Respondents. The parties were informed that, in accordance with Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrate Judges, that they had ten (10) days to file any objections. No objections have been filed.

After *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered: ⁷⁵

AND NOW, this 9 day of May, 2007;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED** as untimely.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 10) of Magistrate Judge Lenihan, dated March 13, 2007, is adopted as the Opinion of the court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.



David S. Cercone
United States District Judge

cc: Lisa Pupo Lenihan
U.S. Magistrate Judge

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